

REMARKS

Claims 1-19 are pending in this application. By this Amendment, claims 1-19 are amended to better conform the claims to U.S. practice and to correct other informalities. No new matter is added.

I. Response to Restriction Requirement

In response to the Restriction Requirement, Applicants provisionally elect Group I, claims 1-8, drawn to a process of manufacturing MTPA, with traverse. For at least the reasons discussed below, Applicants respectfully submit that the Office Action has not met its burden in establishing that a lack of unity of invention exists between the two groups of claims. At the very least, claims 9-15, 18, and 19, which are also drawn to a process of manufacturing MTPA, should be examined with Group I, claims 1-8.

National stage applications filed under 35 U.S.C. §371 are subject to unity of invention practice as set forth in PCT Rule 13, and are not subject to U.S. restriction practice. *See* MPEP §1893.03(d). PCT Rule 13.1 provides that an "international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept." PCT Rule 13.2 states:

Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

A lack of unity of invention may be apparent "*a priori*," that is, before considering the claims in relation to any prior art, or may only become apparent "*a posteriori*," that is, after taking the prior art into consideration. *See* MPEP §1850(II), quoting *International Search and Preliminary Examination Guidelines* ("ISPE") 10.03. Lack of *a priori* unity of invention

only exists if there is no subject matter common to all claims. *Id.* If *a priori* unity of invention exists between the claims, or, in other words, if there is subject matter common to all the claims, a lack of unity of invention may only be established *a posteriori* by showing that the common subject matter does not define a contribution over the prior art. *Id.*

Furthermore, unity of invention only needs to be determined in the first place between independent claims, and not the dependent claims, as stated in ISPE 10.06:

Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By “dependent” claim is meant a claim which contains all the features of one or more other claims and contains a reference, preferably at the beginning, to the other claim or claims and then states the additional features claimed (Rule 6.4).

See also MPEP §1850(II). ISPE 10.07 further provides:

If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention.

See also MPEP §1850(II).

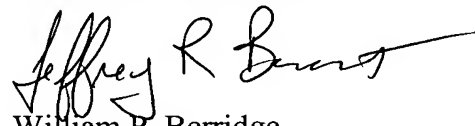
Claim 1 is directed to a continuous process for the manufacture of MTPA. Claims 2-6 and claims 8-15 variously depend from claim 1, and contain all the limitations of claim 1. Claim 7 shares technical features with claim 1, and claims 18 and 19 variously depend from claim 7. As such, claims 1-15, 18, and 19 share common subject matter and, therefore, *a priori* unity of invention exists between all of these claims.

Thus, for the present application, a lack of unity of invention between claims 1-15, 18, and 19 may only be determined *a posteriori*, or in other words, after a search of the prior art has been conducted and it is established that all the elements common to claims 1-15, 18, and 19 are known. See ISPE 10.07 and 10.08.

The Office Action does not establish that each and every element of the subject matter that is common to claims 1-15, 18, and 19 is known in the prior art. Therefore, Applicants respectfully submit that lack of unity of invention has not been established, and thus a restriction requirement based on a lack of unity of invention between at least claims 1-15, 18, and 19 is improper.

Reconsideration and withdrawal of the restriction requirement are respectfully requested. At the very least, Applicants respectfully request that claims 9-15, 18, and 19, which are all drawn to a process of manufacturing MTPA, be examined with Group I, claims 1-8.

Respectfully submitted,



William P. Berridge
Registration No. 30,024

Jeffrey R. Bousquet
Registration No. 57,771

WPB:CSW/jrb

Attachment:
Petition for Extension of Time

Date: May 5, 2008

OLIFF & BERRIDGE, PLC
P.O. Box 320850
Alexandria, Virginia 22320-4850
Telephone: (703) 836-6400

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